

Bernard S. Moore, OSB #843051
moore@fdfirm.com

FROHNAYER, DEATHERAGE, JAMIESON,
MOORE, ARMOSINO & McGOVERN, P.C.
2592 East Barnett Road
Medford, OR 97504-8345
Telephone: 541-779-2333
Facsimile: 541-779-6379

Of Attorneys for Defendant Country Mutual Insurance Company

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

**PETER S. BOGARD and WENDY V.
BOGARD,**

Plaintiffs,

v.

**COUNTRY MUTUAL INSURANCE
COMPANY,**

Defendant.

Case No. 1:19-cv-00705-AA

**DEFENDANT'S AMENDED ANSWER
TO PLAINTIFFS' AMENDED
COMPLAINT**

Prayer Amount: \$231,880

For Amended Answer to Plaintiffs' Amended Complaint, Defendant Country Mutual Insurance Company (Country) admits and denies as follows:

1.

Country admits paragraphs 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, and 14 of Plaintiffs' Complaint.

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2.

Country admits that it denied Plaintiffs' claim based, at least in part, on the controlled substance exclusion found in the policy. Country reserved the right to raise other applicable exclusions at any time.

3.

Country admits that the United States Congress passed the Agricultural Improvement Act in 2018; 21 U.S.C.A Sections 811 and 812; 7 U.S.C Section 1639o, which legislation speaks for itself.

4.

Country admits that it issued a policy of insurance to Plaintiffs. The contents of that document speak for itself.

5.

First Affirmative Defense

The Policy contains the following exclusion:

Exclusions - SECTIONS 2 through 6

A. "We" do not insure for loss caused directly or indirectly by any of the following. Such loss is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss. These exclusions apply whether or not there was widespread damage or affects a substantial area or the loss arises from natural, man-made, or external forces, or occurs as a result of any combination of these.

17. Controlled Substance

The manufacture or processing by an "insured" or with any "insured's" knowledge of a Controlled Substance as defined by the Federal Food and Drug Law at 21 U.S.C.A. Sections 811 and 812.

The Cannabis sativa L which plaintiffs were using to produce a CBD product at the time of the fire contained more than 0.3% total THC by dry weight making it marijuana under the Federal Controlled substances act. At the time of the fire plaintiffs were manufacturing or

processing a controlled substance. Coverage for plaintiffs' loss is specifically excluded under the policy.

WHEREFORE, having fully answered Plaintiffs' Amended Complaint, Country prays for judgment in its favor, dismissing Plaintiffs' Complaint with prejudice and awarding Country its costs and disbursements incurred herein.

DATED this 29th day of October, 2020

FROHNMAYER, DEATHERAGE, JAMIESON,
MOORE, ARMOSINO & McGOVERN, P.C.

By: /s/ Bernard S. Moore
Bernard S. Moore, OSB #843051
Of Attorneys for Defendant
TRIAL ATTORNEY

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **Defendant's Amended Answer to Plaintiffs' Amended Complaint** upon:

Nikolaus N. Gower
TAYLOR & TAPPER
400 E. Second Avenue, Suite 103
Eugene, OR 97401
Fax: 541-246-2424
Email: nick@taylortapper.com
Of Attorneys for Plaintiff

- by automatic electronic transmission via the Court's Case Management and Electronic Case Filing practice.
- by mailing to said attorney a copy thereof, certified by me as such, contained in a sealed envelope, with postage paid, addressed to said attorney at said attorney's last known address and deposited in the post office at Medford, Oregon, on the date set forth below.
- by personally handing said attorney a copy thereof, certified by me as such, on the date set forth below.

Dated this 29th day of October, 2020.

/s/ Bernard S. Moore

Bernard S. Moore, OSB #843051
Of Attorneys for Defendant
TRIAL ATTORNEY